

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

| | | |
|---------------------------|---|---------------------------|
| BRIAN SCOTT WITHAM, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Nos.: 3:20-CV-277-TAV-DCP |
| |) | 3:15-CR-177-TAV-DCP-2 |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |

JUDGMENT ORDER

For the reasons stated in the memorandum opinion filed contemporaneously, petitioner is not entitled to relief under 28 U.S.C. § 2255, so his motion to vacate, set aside, or correct his sentence [No. 3:20-CV-277 Doc. 1] is **DENIED**. Therefore, this action is **DISMISSED**, and the Clerk is **DIRECTED** to close civil case number 3:20-CV-277-TAV-DCP.

The Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, any application by petitioner for leave to proceed in forma pauperis on appeal is **DENIED**. *See* Fed. R. App. P. 24. Any appeal from this order will be treated as an application for a certificate of appealability, which is hereby **DENIED** because petitioner has not made a substantial showing of the denial of a constitutional right and jurists of reason would not dispute

the above conclusions. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT

LeAnna R. Wilson
CLERK OF COURT